

**REMARKS:**

This paper is herewith filed in response to the Examiner's final Office Action mailed on November 7, 2008 for the above-captioned U.S. Patent Application. This office action is a final rejection of claims 1-3, 6-8, 10-16, 23-26, 30-35, 37-42, and 44-48 of the application.

More specifically, the Examiner rejected claims 1-3, 6-8, 14-15, 23-26, 30-35, 38-41, 44-46, and 48 under 35 USC 103(a) as being unpatentable over Tanaka (US 6435969) in view of Bird (US6323884); rejected claims 16 and 47 under 35 USC 103(a) as being unpatentable over Tanaka in view of Bird; rejected claims 10-13 under 35 USC 103(a) as being unpatentable over Tanaka et al. in view of Bird in view of Yamada (US5874941), and rejected claim 42 under 35 USC 103(a) as being unpatentable over Tanaka et al. in view of Bird et al. further in view of Rutledge (US5764219). The Applicant respectfully traverses the rejections.

Claims 1, 7, 23, 25, 35, 37-39, 40-42, and 44-48 have been amended. Support for the amendments can be found at least in paragraphs [0077], [0083], [0085]-[0086], and [0091] of the published Application. No new matter is added.

Claim 1 has been amended to recite:

A method comprising: receiving a signal from a dual-state button having a single depressed state, for moving a focus in a given direction on a graphical display; providing, in response to receiving said signal, predefined acceleration data for accelerating said focus in said given direction; determining a position of the focus on a the graphical display as a function of said acceleration data; displaying the focus at said position on said display; determining a distance between the focus and an object as a radius using a co-ordinate system that is rotated and compressed in a direction of movement of said focus, where said co-ordinate system is rotated so that it becomes aligned with the direction of movement; and if said object has the smallest determined radius, marking said object as a selected object.

The Applicant notes that claim 1 has been amended to include features similar to claims 40 and 41. The Applicant contends that the references cited can not be seen to disclose at least these features of claims 40 and 41 which are now incorporated into claim 1.

In the rejection of claims 40 the Examiner states:

“In regards to claim 40, Tanaka teaches all the limitations of claim 1. Tanaka does not teach determining a distance between the focus and the object as a radius using a coordinate system that is rotated and compressed in a direction of movement of said focus; and if said object has the smallest determined radius, marking said object as a selected object. Bird teaches “... heuristic to predict the intended destination of a user-controlled mouse pointer movement and then automatically moving the pointer to that destination.”(Column 2, Line 6). He further teaches that his invention “adds emphasis such as a highlight colour or animation of the selected button” (Column 3, Line 16). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tanaka with the teachings in Bird and include a predicting where the pointer’s destination is, and then highlighting that object with the motivation to provide for easier selection of items within a GUI environment,” (emphasis added).

Firstly, the Applicant contends that the rejection is improper for at least the reason that nowhere in the references cited can there be found a disclosure or suggestion of “determining a distance between the focus and an object as a radius using a coordinate system that is rotated and compressed in a direction of movement of said focus” as similarly incorporated into claim 1 from claim 40. The Applicants submit that the Examiner’s comments in the rejection are clearly unsupported. The Examiner is seen to rely on a phrase which includes the term “heuristic” in order to reject at least the above mentioned language of claim 40. However, the Applicant notes that the term “heuristic” is not defined or even further mentioned anywhere in Bird. Further, the Applicants contend that there can not be found anything in all of Bird which can be seen to support the Examiner’s assertion that claim 40 would be obvious to one of ordinary skill in the art based on the combined teachings of Tanaka and Bird. The Applicants contend that even if Tanaka and Bird were combined, which is not agreed to as proper, the proposed combination would still fail to disclose or

suggest the language of claim 40 as now similarly incorporated into claim 1. The Applicant contends that the rejection is clearly improper for at least these reasons.

Further, the Applicant notes that Bird discloses:

“When the input device pointer is at a distance from all of the selectable GUI elements (Buttons 1,2,3) which is greater than a predefined distance  $d$ , as shown in FIG. 3A, the prediction mechanism remains idle. When the user moves the pointer within distance  $d$  of one of the buttons, as in FIG. 2B, the prediction mechanism is activated to predict which of the GUI elements is the most probable next GUI element for user interaction. The input device pointer is then moved to overlay a predicted button, as shown in FIG. 3. The predicted button is also shown visually changed,” (col. 6, lines 43-53).

Here, it can be seen that Bird expressly relies on a device pointer being closer than a “predefined distance  $d$ ” in order to activate the prediction mechanism. However, the Applicants submit that there can not be found any disclosure in Bird with regards to how the “distance  $d$ ” is determined, and certainly nothing in Bird which can be seen to disclose or suggest “determining a distance between the focus and an object as a radius using a co-ordinate system that is rotated and compressed in a direction of movement of said focus,” as in amended claim 1.

In addition, regarding the rejection of claim 41 the Examiner states:

“In regards to claim 41, Tanaka and Bird teach all the limitations of claim 40. Tanaka does not specifically teach rotating the coordinate system so that it becomes aligned with the direction of said velocity. However this feature is inherent in Tanaka. If a user was to play a three dimensional game using Tanaka’s invention, the screen would rotate according to the direction of the velocity of the user,” (emphasis added).

The Applicant notes that the related language of claim 41, now similarly incorporated into claim 1, states that said co-ordinate system is rotated so that it becomes aligned with the direction of movement. In the rejection, as stated above, the Examiner states that this feature is inherent in Tanaka because “If a user was to play a three

dimensional game using Tanaka's invention, the screen would rotate according to the direction of the velocity of the user." This argument is clearly unsupported for at least the reason that no where in Tanaka is there any disclosure or suggestion that a three dimensional game is even supported by the game machine. Further, the Applicants submit that there is nothing in all of Tanaka which can be seen to support the Examiner's apparent assertion that Tanaka would be capable of supporting a co-ordinate system capable of being rotated so that it is aligned with the direction of movement, as in claim 1. The Applicants contend that the rejection is improper for at least these reasons.

In addition, the Applicant submits that neither Yamada nor Rutledge can be seen to overcome the shortfalls of Tanaka and Bird, as stated above.

The Applicant contends that for at least the reasons already stated the rejection of claims 40 and 41 is improper and the rejection should be removed, in particular as subject matter from these claims is now incorporated into claim 1.

In addition, for at least the reasons that claims 44 and 48 recite features similar to claim 1, as stated above, the references cited can not be seen to disclose or suggest these claims. Therefore, the rejections of claims 44 and 48 should be removed.

Further, the Applicant submits that none of the references cited can be seen to disclose or suggest at least where amended claim 40 recites in part "determining, in response to accelerating said focus, a maximum velocity of the focus, where the maximum velocity is reduced as the focus approaches an edge of the graphical display."

In addition, for at least the reason that claim 45 recites features similar to claim 40, as stated above, the references cited can not be seen to disclose or suggest the claimed subject matter.

Further, the Applicants submit that none of the references cited can be seen to disclose or suggest at least where amended claim 41 recites in part "a first mode wherein the display begins to scroll if the focus is moved to the edge of the display; and wherein a second mode the display is moved relative to the object."

Further, the Applicant submits that for at least the reasons that claims 2-3, 6-16, 23-26, 30-35, and 37-42, and claims 45-47 depend from claims 1 and 44, as stated above, the references cited can not be seen to disclose or suggest these claims.

Regarding page 8 of the Office where the Examiner asserts Official Notice, the Applicant disagrees with the Examiner's assertion. The Applicant respectfully submits that where the Examiner takes Official Notice is improper for at least the reason that the Examiner has not cited a reference in support of his position where the facts asserted to be well known are capable of instant and unquestionable demonstration.

MPEP 2144.03 recites:

"It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21. See also *In re Grose*, 592 F.2d 1161, 1167-68, 201 USPQ 57, 63 (CCPA 1979) ("[W]hen the PTO seeks to rely upon a chemical theory, in establishing a prima facie case of obviousness, it must provide evidentiary support for the existence and meaning of that theory."); *In re Eynde*, 480 F.2d 1364, 1370, 178 USPQ 470, 474 (CCPA 1973) ("[W]e reject the notion that judicial or administrative notice may be taken of the state of the art. The facts constituting the state of the art are normally subject to the possibility of rational disagreement among reasonable men and are not amenable to the taking of such notice.").

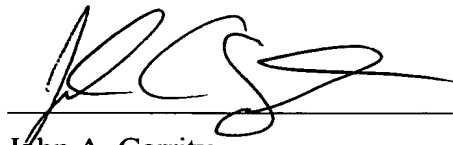
Furthermore, the Applicant notes that although not all the rejections were addressed in this Response, the Applicant does not acquiesce to these rejections.

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Based on the above explanations and arguments, it is clear that the references cited cannot be seen to disclose or suggest claims 1-3, 6-8, 10-16, 23-26, 30-35, 37-42, and 44-48. The Examiner is respectfully requested to reconsider and remove the rejections of claims 1-3, 6-8, 10-16, 23-26, 30-35, 37-42, and 44-48 and to allow all of the pending claims 1-3, 6-8, 10-16, 23-26, 30-35, 37-42, and 44-48 as now presented for examination.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record. Should any unresolved issue remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Respectfully submitted:



John A. Garrity

Reg. No.: 60,470

Customer No.: 29683

HARRINGTON & SMITH, PC

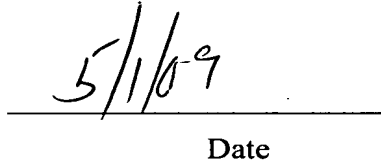
4 Research Drive

Shelton, CT 06484-6212

Telephone: (203)925-9400

Facsimile: (203)944-0245

email: [jgarrity@hspatent.com](mailto:jgarrity@hspatent.com)



Date